IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 506 of 2005

Between:

A.Mallikarjunapppa S/o.Ayyanna
R/o.Virupapuram Village, Adoni Mandal,
Kurnool District.

..... PETITIONER

AND

1 The District Collector, Kurnool, Kurnool District.
2 The Joint Collector, Kurnool, Kurnool District.
3 The Revenue Divisional Officer Adoni Mandal, Kurnool

District.
4 The Mandal Revenue Officer, Adoni Mandal, Kurnool

District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not passing any orders on the stay petition in the Revision filed by the petitioner, as illegal, void and ultravires the provisions of the A.P.State Public Distribution System Control Order, 2001 and consequently set aside the proceedings of the 3rd respondent dt 24-7-2004 in Rc.M/776/2004 and to grant such other relief or reliefs.

Counsel for the Petitioner:MR.J.JANAKIRAMI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

Through order, dated 24.07.2004, the 3rd respondent suspended the authorization of the petitioner in respect of his fair price shop. Aggrieved thereby, the petitioner preferred an appeal before the 2nd respondent. The appeal was rejected by the 2nd respondent through his order, dated 21.12.2004. The petitioner preferred a revision before the 1st respondent. He also filed an application for stay and it was rejected by the 1st respondent. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The petitioner was not issued any show cause notice as contemplated under Clause 5(4) of the A.P. State Public Distribution System Control Order, 2001 before the 3rd respondent passed the order dated 24.07.2004. However, a perusal of the order, dated 24.07.2004, discloses that the suspension was ordered not as a measure pending enquiry. On the other hand, the 3rd respondent recorded definite finding solely on the basis of a report submitted by the Mandal Revenue Officer. The relevant portion reads as under:

> "Thus the dealer has contravened the conditions of the authorization. Hence, I hereby suspended the dealership held by Sri Mallikarjuna, Fair Price Shop Dealer of Virupapuram village of Adoni Mandal."

It is settled principle of law that no definite finding can be recorded against an individual without conducting any enquiry and an order of suspension as a substantive penalty cannot be imposed without issuing any show cause notice. Unfortunately, these two aspects were not taken into account by the 2nd respondent in the appeal preferred by the petitioner. The curious aspect of the matter is that the 2nd respondent went a step further and referred to several allegations, which do not figure in the order of suspension. Such an approach is opposed to the very basic tenets of adjudication. The delay on the part of the 1st respondent in passing interim order has already caused undue hardship to the petitioner.

Hence, the writ petition is disposed of, directing that the order, dated 24.07.2004

passed by the 3rd respondent shall remain suspended, till the disposal of revision by the 1st respondent. There shall be no order as to costs.

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31.01.2005

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1 The District Collector, Kurnool, Kurnool District.
2 The Joint Collector, Kurnool, Kurnool District.
3 The Revenue Divisional Officer Adoni Mandal, Kurnool District.
4 The Mandal Revenue Officer, Adoni Mandal, Kurnool District.

5. Two CCs to G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT).

6. Two CD copies.